

**TOWN OF DAVIE  
REGULAR MEETING  
NOVEMBER 17, 2004**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 7:00 p.m. and was followed by the Pledge of Allegiance, led by Major Scott Mack from the U.S. Marine Corps.

**2. ROLL CALL**

Present at the meeting were Mayor Truex, Vice-Mayor Paul, and Councilmembers Crowley, Hubert and Starkey. Also present were Interim Town Administrator Kovanes, Town Attorney Kiar, and Town Clerk Muniz recording the meeting.

Major Scott Mack spoke about the Marine Corps' Toys for Tots program and spoke of how the Town's residents and business owners could participate in this program.

John Pisula confirmed with Councilmember Hubert that a box would be placed on Town property for collection of toys.

Mayor Truex advised that item 5.3 needed to be tabled to December 15, 2004.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 3.26 needed to be added.

Vice-Mayor Paul made a motion, seconded by Councilmember Hubert, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 7.1 needed to be added.

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to add. In a voice vote, all voted in favor. (Motion carried 5-0)

**3. APPROVAL OF CONSENT AGENDA**

*Minutes*

- 3.1. October 6, 2004 (Regular Meeting)
- 3.2. October 20, 2004 (Regular Meeting)
- 3.3. October 25, 2004 (Special Executive Session)

*Home Occupational Licenses*

- 3.4. Complete Water System, Inc., 2961 SW 111 Terrace (tabled from November 3, 2004)
- 3.5. Tri County Salt & Service, 2961 SW 111 Terrace (tabled from November 3, 2004)
- 3.6. Imperial Limousine & Transportation Service, 13850 SW 18 Court

*Proclamations*

- 3.7. Valerie Herskowitz Day (November 17, 2004)
- 3.8. Farm-City Week (November 19-25, 2004)

*Resolutions*

- 3.9. **BID - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE**  
R-2004-255 **BID FOR CONSTRUCTION OF THE OAKES ROAD FIRE/RESCUE STATION.**  
(Pino Kaoba & Associates, Inc - \$2,364,268)

**TOWN COUNCIL MINUTES**  
**NOVEMBER 17, 2004**

- 3.10. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-256 AUTHORIZING THE APPROPRIATE OFFICIALS TO ENTER INTO AN AGREEMENT BETWEEN BROWARD COUNTY AND THE TOWN OF DAVIE FOR RIGHT-OF-WAY BEAUTIFICATION WITHIN THE MEDIANS ALONG PINE ISLAND ROAD FROM ORANGE DRIVE TO I-595 WITHIN THE TOWN OF DAVIE AND AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SUCH DOCUMENT. (\$500/year)
- 3.11. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-257 AUTHORIZING A JOINT PARTICIPATION AGREEMENT BETWEEN THE TOWN OF DAVIE AND BROWARD COUNTY TO HOLD A HOUSEHOLD HAZARDOUS COLLECTION EVENT IN THE TOWN OF DAVIE; PROVIDING FOR AN EFFECTIVE DATE.
- 3.12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-258 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN THE SCHOOL BOARD OF BROWARD COUNTY AND THE TOWN OF DAVIE TO PROVIDE A SCHOOL RESOURCE OFFICER PROGRAM FOR WESTERN HIGH SCHOOL, INDIAN RIDGE MIDDLE SCHOOL AND SEVEN ELEMENTARY SCHOOLS IN THE TOWN OF DAVIE. (reimbursement of \$84,000 for 10 months)
- 3.13. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-259 AUTHORIZING THE MAYOR AND THE TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, AND THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA, FOR REGIONAL ROAD CONCURRENCY RELATING TO THE SITE PLAN KNOWN AS ADMIRAL'S BOYS AND GIRL CLUB FOR REMEDIAL MEASURES TO SATISFY CONCURRENCY REQUIREMENTS; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (DA 11-1-04, Boys & Girls Clubs of Broward County, 6500 Nova Drive)
- 3.14. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-260 AUTHORIZING THE MAYOR TO EXECUTE THE CDBG SUB-RECIPIENT GRANT AGREEMENT WITH THE HOPE OUTREACH, INC., TO PROVIDE SOCIAL SERVICES/EMERGENCY ASSISTANCE TO DAVIE'S LOWER-INCOME FAMILIES AND INDIVIDUALS. (\$40,600)
- 3.15. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA  
R-2004-261 ENTERING INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND GRANDe CONSULTING, INC. TO REPRESENT THE TOWN OF DAVIE FOR LEGISLATIVE AND GOVERNMENTAL CONSULTING SERVICES. (\$36,000)

**TOWN COUNCIL MINUTES  
NOVEMBER 17, 2004**

- 3.16. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-262 RENEWING AN AGREEMENT BETWEEN THE TOWN OF DAVIE AND DAVID K. SIGERSON, JR. OF ERICKS CONSULTANTS, INC. TO REPRESENT THE TOWN OF DAVIE FOR LEGISLATIVE AND GOVERNMENTAL CONSULTING SERVICES FOR FISCAL YEAR 2004/2005. (\$36,000)
- 3.17. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-263 AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE COLOMBIAN VOLUNTEER LADIES FOR THE RENTAL OF THE BERGERON RODEO GROUNDS. (\$500)
- 3.18. **AIRPORT EXPANSION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA CONCERNING THE HOLLYWOOD/FORT LAUDERDALE AIRPORT EXPANSION; ESTABLISHING EXPENSES FOR THE PROPOSED AIRPORT EXPANSION; PROVIDING THE TOWN TO PAY FOR 1/3 OF THE EXPENSES UP TO THE AMOUNT OF \$25,000 TO BE SHARED ALONG WITH THE CITY OF HOLLYWOOD AND THE CITY OF DANIA BEACH.
- 3.19. **AMENDED AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE,  
R-2004-264 FLORIDA AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED AGREEMENT FOR LEGAL SERVICES BETWEEN THE TOWN OF DAVIE AND MONROE D. KIAR TO PERFORM THE DUTIES OF THE TOWN ATTORNEY, REVISING RESOLUTION NO. R-2000-214 AND RESOLUTION R-2003-58, TO THE EXTENT OF SUCH CHANGES, CONTAINING AN EFFECTIVE DATE.
- 3.20. **COMMUNITY CHEST** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
R-2004-265 SUPPORTING THE FORMATION OF A COMMUNITY CHEST THAT WOULD HELP SUPPORT LOCAL CHARITIES AND PROVIDING FOR AN EFFECTIVE DATE.

*Temporary Use Permits*

- 3.21. TU 10-1-04, Davie Merchants Industrial Association, 2701 North University Drive (Christmas tree sales)
- 3.22. TU 11-1-04, E.A.S.E., 5801 South University Drive (Christmas tree sales)
- 3.23. TU 11-2-04, E.A.S.E., 15835 Rick Case Honda Way (Christmas tree sales)
- 3.24. TU 11-3-04, E.A.S.E., 2300 University Drive (Christmas tree sales)

*Quasi-Judicial Consent Agenda*

- 3.25. SP 5-9-04, Robles Professional Building, 5337 Orange Drive (RO) *Site Plan Committee recommended approval subject to the planning report which included the comment that there be awnings over the doorway; that the plans be adjusted to show the handicapped ramps accurately to reflect the design; that the awnings be added on the rear windows of the second floor to match the front and sides of the building; and that all the plans correctly show the construction trailer*

Councilmember Starkey pulled item 3.18 be removed from the Consent Agenda. Councilmember Starkey pulled item 3.7. Councilmember Hubert pulled items 3.20, 3.22, 3.23, 3.24, and 3.14. Vice-Mayor Paul pulled items 3.8 and 3.26. Mayor Truex pulled items 3.7, 3.15, 3.16, 3.19 and 3.26.

**TOWN COUNCIL MINUTES**  
**NOVEMBER 17, 2004**

Councilmember Starkey made a motion, seconded by Councilmember Crowley, to approve the Consent Agenda minus items 3.7, 3.8, 3.14, 3.15, 3.16, 3.18, 3.19, 3.20, 3.22, 3.23, 3.24, and 3.26. In a voice vote, all voted in favor. (Motion carried 5-0)

**4. DISCUSSION OF CONSENT AGENDA ITEMS**

3.7 Mayor Truex passed the gavel and made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex read the proclamation declaring November 17, 2004 Valerie Herskowitz Day. Ms. Herskowitz thanked Council for this proclamation.

3.8 Vice-Mayor Paul read the proclamation declaring November 19-25, 2004, Farm-City Week. Fred Segal thanked Council for this proclamation and spoke of the work done by the Broward Farm Bureau.

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

3.14 Councilmember Hubert stated she had questions about the correct contact information regarding the tutoring program that HOPE Outreach offered.

Shirley Taylor-Prakelt, Director of Housing and Community Development, explained that services were paid directly to clients and not to actual residents in need. She advised that the primary service provided was homeless prevention. Ms. Taylor-Prakelt stated that all programs listed were still being operated, including the tutoring program. She spoke of other services HOPE offered and promised to look into Councilmember Hubert's concerns about the correct contact information and operating hours for HOPE programs.

Mayor Truex asked how the Town could make HOPE more accountable. Ms. Taylor-Prakelt advised that HOPE had to provide her office with a detailed quarterly report outlining services provided and monies paid. In addition, HOPE was paid quarterly visits to facilitate accountability.

Vice-Mayor Paul made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

3.15 and 3.16 Mayor Truex questioned whether the Town received monthly reports.

David Sigerson spoke on behalf of Dave Ericks and advised that he submitted an activity report along with his statement.

Mayor Truex asked that the contracts be approved with the condition that they be paid when the reports were received. He requested that this be a condition for the motion to approve.

Councilmember Starkey commended Mr. Sigerson for the work his firm did in Tallahassee on behalf of the Town. She agreed that it would be best for Council to receive an accounting report.

Mayor Truex passed the gavel and made a motion to approve conditioned upon that the bill be paid when the monthly report was received. Councilmember Starkey seconded the motion. In a voice vote, all voted in favor. (Motion carried 5-0)

3.18 Councilmember Starkey spoke of the agreement the Town had with the cities of Dania Beach and Hollywood on the airport expansion issue. She referred to language in the billing that was specific to Dania Beach and she wanted to reserve some funds in addition to what was agreed upon, Councilmember Starkey advised that she wanted an opportunity to review the billing with Assistant Town Administrator Ken Cohen and Budget and Finance Director William Underwood. She voiced her concern

**TOWN COUNCIL MINUTES**  
**NOVEMBER 17, 2004**

that as this was a partnership, the purpose should be to defray the mutual costs to benefit all municipalities, not specifically one municipality.

Vice-Mayor Paul asked whether they were requesting money above what was originally approved. Councilmember Starkey responded in the affirmative. Vice-Mayor Paul pointed out that the Town had made an agreement and was being billed for an amount above and beyond what was agreed upon.

Councilmember Starkey voiced her concern about ten billable hours that were pertinent to Dania Beach's annexation/de-annexation issues, while other areas in Davie were not addressed. She felt there needed to be better communication between White and Case and the Town.

Mayor Truex pointed out that there were so many points to iron out that this would not be resolved right away. He suggested that the issue of possibly hiring White and Case should be brought back before Council at the second meeting in December.

Mr. Cohen advised that staff could go through the billing in more detail and pointed out that the Town was not obligated to pay.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to table to December 15, 2004. In a voice vote, all voted in favor. (Motion carried 5-0)

3.19 Regarding the Town Attorney's contract, Mayor Truex referred to Section 9 referring to "termination/180 days" and requested that language be added stating, "conditional upon the Attorney being willing and able to serve as the Town Attorney for the aforementioned 180-day period."

Councilmember Starkey referred to Section 5, regarding payment being made 15 days from the date invoices were sent. She was pleased that this was addressed as she felt it was important for invoices to be paid in a more timely manner, as the Town Attorney dedicated his time and practice for the Town's work.

Councilmember Hubert made a motion, seconded by Councilmember Starkey, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

3.20 Councilmember Hubert asked about the possible "seed money" the Town would provide for the community chest. Councilmember Starkey stated that most of the charities Councilmember Hubert was familiar with came from the endowment trust fund which was a line item in the Town's budget. The actual numbers were not stated yet but this item was on the agenda for Council to determine which charities remained with the Town as a line item. She stated that this resolution provided for other charities that did not fall within the contribution required for grants. Councilmember Starkey advised that this resolution was to give staff direction and to facilitate a proposal to be brought back before Council with a dollar amount. She indicated that it was never the intention for the Town to cut some of its main charities and was disappointed that such rumors already existed.

Mayor Truex advised that he had sent a letter to every charity that had received money from the Town last year, advising that there had been discussion about the Town establishing a community trust in the future to facilitate this function. Councilmember Starkey pointed out that this letter might have been misinterpreted as the Town not providing any funding at all in the future.

Councilmember Hubert indicated that if the community chest was not controlled, it could choose any charity it desired, rather than ones that specifically benefited Davie residents. Councilmember Crowley echoed the same concern about controlling where charitable contributions would go. He felt Council should have some say over where contributions would go. Councilmember Starkey stated that this would be based on what Council determined and spoke of the Community Chest of Coral Springs that was able to raise much more money than the city alone. She pointed out that the elected officials of Coral Springs still retained control of contributions to given charities despite the fact that they did not vote on

## **TOWN COUNCIL MINUTES**

### **NOVEMBER 17, 2004**

the community chest board. She pointed out that a community chest actually generated more money for the charities.

Vice-Mayor Paul pointed out that she had attended several Davie Land Trust meetings and was able to give input and suggestions, even though she was not a voting member. She felt Council should be more specific in this resolution and clarify the criteria it wanted to use for establishing the charities that would receive money. Vice-Mayor Paul stated that the criteria would be based on what the Town had tried to use in the past, in terms of what benefit came to Davie from a particular charity. She felt if these were part of the creation of the chest, then the people from Davie who would serve on the board would address these needs anyway. Vice-Mayor Paul stated that she did not expect that any organization created for the benefit of residents in Davie would give money to people elsewhere. She felt that if the mission statement of the community chest specifically included language requiring that charities that helped residents of Davie should benefit, this would provide some degree of comfort going forward.

Councilmember Crowley asked if the line item on the budget would be eliminated if this were approved. Vice-Mayor Paul felt that this would be reduced substantially if not eliminated as the organization could possibly raise more money for the charities than the Town alone could provide. Councilmember Crowley indicated that he had no objection with moving forward with these suggestions in place.

Councilmember Starkey pointed out that on some occasions, when business people from the Town approached Council, it gave the appearance of ethical problems when they wished to contribute to charities. She felt Council should not be put in this position and should be removed from such scenarios altogether. Councilmember Starkey indicated that the establishment of the community chest would eliminate any appearance of impropriety. She pointed out the difficulty governments had with trying to support charities locally and felt the needs in Davie far exceeded the \$200,000 Council had to struggle to spread out to local charities. Councilmember Starkey stated that the Town could still fund the \$200,000 line item in the budget every year but continue to face struggles trying to provide help to many beneficial services. She advised that nothing would change in the Town's budget process unless it had three votes for a change. Councilmember Starkey stated that this resolution was not to debate which charity to support, but to give direction to provide the necessary information for staff to do research and for a proposal to be brought before Council for further input.

Councilmember Hubert spoke of past discussions with developers regarding contributions to charities and felt businesses should choose who they wished to fund. She stated that charities in Davie needed to stay in Davie. Councilmember Starkey pointed out that this process would not change and that the Town would still contribute to the charities it supported out of its budget, until Council voted to change this.

Beryl Glansford, representing First Call for Help, pointed out that her agency was also a recipient of the Community Chest of Coral Springs and provided a report of services that First Call For Help was required to submit. She spoke of the progress of the Community Chest of Coral Springs and recommended that the Town keep charities funded at the current levels, until Davie's community chest achieved the necessary funding for charities.

Mindy Shrager, executive director of the Young at Art Children's Museum, sought continued funding from the Town and hoped that the community chest would not be a detriment to the children in Davie.

Linda Owen, representing the EASE Foundation, spoke of her conversation with the director of the Community Chest of Coral Springs. Councilmember Starkey explained that the idea was to bring a proposal forward to show which charities the Town wanted to keep in the \$200,000 range and pointed out that seed money was needed to get the ball rolling. She indicated that she would be helping with fundraising efforts that would be part of the community chest goals.

## **TOWN COUNCIL MINUTES**

### **NOVEMBER 17, 2004**

Mayor Truex felt that with a community chest being a separate, non-profit entity with its own board of directors, it would be difficult to specify the causes to be funded. He pointed out that the Council previously discussed spending \$25 million for trail and equestrian lifestyle improvements while some people in the Town did not have “two nickels to rub together”. Mayor Truex voiced his opposition to the idea that government should “get out” of the business of giving local grants to people who needed help the most. Mayor Truex wanted some measure in place that would indicate the Town would not cut out what it actually gave to the charities.

Vice-Mayor Paul felt the community chest would be able to collect more money than what the Town earmarked each year. She stated she did not see the problem with voting to move the process forward on establishing a community chest that would generate more money beyond what the Town could contribute to charities.

Mayor Truex requested further information. Vice-Mayor Paul stated that she did not see any harm in setting the process in motion as nothing voted on would be set in stone. Councilmember Crowley concurred.

Councilmember Crowley asked how the individual members of the agency would be appointed. Councilmember Starkey explained that a group of volunteers would be appointed.

Councilmember Hubert made a motion, seconded by Mayor Truex, to deny. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - no; Councilmember Crowley - no; Councilmember Hubert - yes; Councilmember Starkey - no. (Motion failed 2-3)

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve based on the fact that Council would have further research and that the plan would be brought back before Council. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Starkey - yes. (Motion carried 3-2)

3.22, 3.23, and 3.24 Councilmember Hubert voiced her concern that Home Depot had selected one charity to support over the others.

Linda Owen, representing the EASE Foundation, introduced Chris Wallace who spoke of the desperate need to raise funds for EASE because of how much money was paid due to the fire at Arrowhead Condominiums. Ms. Owen pointed out that EASE had fallen far short financially.

Ms. Taylor-Prakelt advised that EASE had donated approximately \$32,000 in assistance to Arrowhead fire victims. She added that HOPE and the Red Cross had also helped with financial assistance and services to victims of Arrowhead.

Nectaria Chakas, representing Home Depot, explained that the company had met with the representatives of EASE and supported what they stood for. She explained that the decision was not to imply that other charities in Davie were not worthy. Ms. Chakas spoke of the firm’s desire to earmark the Christmas tree sales permit fees in favor of EASE.

Councilmember Hubert asked if other charities were approached. Councilmember Starkey stated that the decision was Home Depot’s choice. Ms. Chakas advised that she could not explain why other charities were not selected. Mayor Truex felt the Town should not get involved with this issue. Councilmember Hubert pointed out that last year, the Town charged the permit fees and distributed the funds between EASE and HOPE. Ms. Chakas indicated that she would let the corporate office know the Council’s concern but next year was another year, where another charity might be selected.

Councilmember Starkey spoke of St. David’s Men’s Club’s efforts to support HOPE Outreach. She voiced her support for EASE receiving the funds.

**TOWN COUNCIL MINUTES  
NOVEMBER 17, 2004**

Councilmember Crowley made a motion, seconded by Councilmember Starkey, to approve 3.22, 3.23, and 3.24. In a voice vote, with Councilmember Hubert dissenting, all voted in favor. (Motion carried 4-1)

3.26 Mayor Truex wanted to ensure that the after the fact double fee permit would be charged. Mr. Kutney indicated in the affirmative.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

**5. PUBLIC HEARING**

*Resolution*

5.1. **CAPITAL PROJECTS AMENDMENT - A RESOLUTION OF THE TOWN OF R-2004-266 DAVIE, FLORIDA, AMENDING THE ADOPTED 5-YEAR CAPITAL PROJECTS PROGRAM FOR THE TOWN OF DAVIE FOR FISCAL YEARS 2005-2009.**

Town Clerk Muniz read the resolution by title.

Mayor Truex opened the public hearing. As no one spoke, Mayor Truex closed the public hearing.

Vice-Mayor Paul made a motion, seconded by Councilmember Starkey, to approve. In a roll vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Hubert - yes; Councilmember Crowley - yes; Councilmember Starkey - yes. (Motion carried 5-0)

*Ordinance - First Reading (Second and Final Reading to be held December 1, 2004)*

5.2. **VACATION - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 6-1-04, VACATING A PORTION OF RIGHT-OF-WAY FOR SW 78 AVENUE WITHIN SECTION 33, TOWNSHIP 50 SOUTH, RANGE 41 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 6-1-04, Young/Lawson, 4900 S University Drive)**

*Planning and Zoning Board recommended denial*

Town Clerk Muniz read the ordinance by title. Mayor Truex announced there would be a public hearing on this item at the December 1, 2004 meeting.

Stephen Young and Chris Lawson, owners of Florida Nursery Mart, explained the reason for this request.

Mayor Truex opened the public hearing portion of the meeting.

Phyllis Spivak, 4975 SW 76 Avenue, felt that granting this request would improve the dynamic on her property. She spoke of the beauty of her equestrian property and nearby wildlife and explained that she wanted these to be protected.

Andrew Engelmann, president of the Southwood Townhouses Association, stated that his concern was the huge ficus tree at the end of the road that was uprooted by the hurricane. He felt the ficus trees along the fence should be removed as he felt they served no purpose there. Mr. Engelmann felt the request would probably be of some benefit to have it blocked off.

Mayor Truex closed the public hearing.

Mayor Truex asked whether the applicants intended to keep the property as a nursery with Mr. Young responding in the affirmative. Mayor Truex suggested that the applicants meet with the Davie Land Trust. He felt residents would be concerned that the vacation would cause another party to come in with a big commercial project, but that by keeping it for a nursery, another party could surrender some of the property rights. Mayor Truex was concerned about the property being used for other purposes than as



**TOWN COUNCIL MINUTES  
NOVEMBER 17, 2004**

a nursery. He explained that the Davie Land Trust tried to foster people surrendering certain rights and felt this might suit the applicants' needs.

Vice-Mayor Paul stated that the Davie Land Trust was in the process of establishing criteria and explained that establishing a conservation easement would involve giving up development rights of a piece of the property into perpetuity. The applicants indicated they had no problem with this.

Vice-Mayor Paul asked for an opinion based on the Town's Charter, which talked about selling land and whether or not the Town would be able to, under the law, require money in exchange for the vacation. Development Services Director Mark Kutney stated that the applicants had indicated that one intended use of the property was for a T-turnaround. He was not sure that this would meet the criteria of the Land Trust for a conservation easement and suggested that if the applicants were willing to forego the T-turnaround, it might be a viable solution for the applicants and the Land Trust.

Mayor Truex felt this item should be tabled to give the applicants time to go before the Davie Land Trust. He suggested that this item be tabled to February 16, 2005. Councilmember Starkey felt tabling was wise at this point, and added that if the Land Trust was not ready at this point, Council could act on this in the interim, as it did serve a public purpose. She felt the possible win-win situation should be explored.

Councilmember Crowley referred to page 2 of the staff report, regarding "surrounding land use plan designation," and requested correction to the text indicating commercial use as being to the east.

Vice-Mayor Paul made a motion, seconded by Councilmember Crowley, to table to February 16, 2005. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

*Ordinance - First Reading/Quasi Judicial Item (Second and Final Reading to be held December 1, 2004)*

- 5.3. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 5-3-04, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM B-3, PLANNED BUSINESS CENTER DISTRICT TO RM-10, MEDIUM DENSITY DWELLING DISTRICT; RESCINDING ORDINANCE NO. 84-16; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 5-3-04, Voight/Matrix University, LLC., 5250 and 5270 University Drive) (tabled from October 20, 2004) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

*Quasi-Judicial Item*

- 5.4. **VARIANCE** - V 9-1-04, Mira Group/Mirabal, 3692 Churchill Downs Drive (AG) (to reduce the side setback on the north side of the property from 35 feet to 25 feet so that an addition may be constructed in line within the 25 feet side setback of the existing home) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Planning and Zoning Manager Fernando Leiva summarized the planning report.

Mayor Truex asked if the association and adjoining homeowners agreed to this request. Mr. Leiva responded in the affirmative.

Pedro Mirabal, representing the petitioner, explained the reason for this request.

## **TOWN COUNCIL MINUTES**

### **NOVEMBER 17, 2004**

Councilmember Starkey wanted to clarify that the applicant was not going to build beyond the floor area ratio allowed on the site plan. Mr. Mirabal concurred. Councilmember Starkey asked if the Town's Code had a requirement that the applicant could only stay within the "buildable pad" or could they expand beyond this at their own expense. Mr. Leiva explained that the "buildable pad" only referred to that portion of the site that was within the setbacks and advised that the applicants were well within the boundaries.

Councilmember Starkey stated the Town had a zoning category for estate zoning when this was first approved, and asked if the Town had an overlay for that entire Long Lakes Ranches area that covered the rural lifestyle initiative. Mr. Kutney explained that when the rural lifestyle initiative was adopted, there were no area-wide or large area overlays that had any impact on current zonings within the area in question.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Starkey disclosed that she had spoken with Rob Ricker with GL Homes, Kevin Ratterree, and several residents in her community who had been asked to do variances when they put on additions.

Councilmember Starkey stated that she had stopped by the sales office with questions about the models and whether they were consistent. She referred to the Caliterra Model that had several options which allowed for similar improvements. Councilmember Starkey questioned why the Town would impose new zoning requirements, when in other areas of the same development, permits had been granted that had allowed those kinds of improvements consistent to the site plan that was approved. Mayor Truex asked Councilmember Starkey if she felt the variance was not needed. Councilmember Starkey responded in the affirmative. She felt that it set a very bad course of action on the Town's part where a number of residents in the area would be imposed upon to seek variances when they were entitled to do this from the day they purchased the properties. Mr. Kutney explained that there was a uniformity principle in zoning which indicated that such a change affected all the properties in any area with this zoning. Mr. Kiar advised that each variance was looked upon individually.

Councilmember Starkey had concerns about the justification for a variance to begin with and pointed out that the line approved by the Site Plan Committee was to keep the smooth line all the way down, with a buildable pad at 25 feet. Mr. Kutney advised that it was possible to meet the setback requirement. Councilmember Starkey felt the Town was imposing regulations on an already existing vesting of someone's rights. Mr. Kutney pointed out that if this were a change to a setback in any district, not factoring in the rural lifestyle initiative, all the same particulars would apply even to a lot of properties that had a vesting in that property, and applicants would have to comply within the setback. Councilmember Starkey asked if this development was an overlay of the rural lifestyle initiative. Mr. Kutney explained that the new setback requirement applied to any property zoned AG throughout the Town. Mr. Leiva explained that when the Town was establishing regulations, it did not look at exceptions to begin with. He stated that existing developments prior to the establishment of the rural lifestyle initiative were vested, but that any party that wanted to add to the development would be subject to the new regulations. Mr. Leiva reiterated that the regulations applied to each and every lot within what was meant to be part of the rural lifestyle initiative.

Councilmember Starkey requested a legal opinion on the rural lifestyle initiative in the Code for future reference. Mr. Kiar indicated that he would provide this.

Vice-Mayor Paul made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Paul - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Starkey - yes. (Motion carried 5-0)

**TOWN COUNCIL MINUTES**  
**NOVEMBER 17, 2004**

*Item to be withdrawn*

**5.5. WITHDRAWN BY PETITIONER**

LAND USE PLAN AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA 03-12A, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "COMMERCE/OFFICE" TO "COMMERCIAL"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (tabled from April 7, 2004) *Local Planning Agency recommended denial based on that the proposal does not meet the criteria set forth in the Code 12-304, specifically items 4 and 10 of the planning report - it is not appropriate as it abuts a residential area, and it would not be an appropriate change nor the best use*

This item was withdrawn earlier in the meeting.

**6. APPOINTMENTS**

6.1. Agricultural Advisory Board (one exclusive appointment - Councilmember Starkey; term expires April 2006) (insofar as possible, members shall have experience in agricultural matters, related occupations or other similar skills)

No appointment was made.

6.2. Child Safety Board (Councilmember Crowley and Starkey and Mayor Truex; terms expire April 2006) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointments were made.

6.3. Open Space Advisory Committee Agency (one exclusive appointment - Mayor Truex; term expires April 2006)

No appointment was made.

6.4. School Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2006) (insofar as possible, members are to have experience in educational matters)

No appointment was made.

6.5. Senior Citizen Advisory Committee (one exclusive appointment - Councilmembers Crowley and Mayor Truex; two exclusive appointments - Councilmember Hubert; terms expire April 2006) (members shall be a minimum 60 years of age)

No appointments were made.

6.6. Water and Environmental Advisory Board (one exclusive appointment - Vice-Mayor Judy Paul; term expires April 2006) (insofar as possible, one member shall be a licensed engineer)

No appointment was made.

**TOWN COUNCIL MINUTES**  
**NOVEMBER 17, 2004**

**7. OLD BUSINESS**

Earlier in the meeting, Vice-Mayor Paul spoke of previous discussions concerning the possibility of another open space bond and advised that she had attended the recent Open Space Advisory Committee meeting, where this was discussed.

Linda Greck, Committee Vice-Chair, read a memorandum from the Committee that voiced the members' concerns about insufficient funding for on-going maintenance of open space parcels and the trail systems and which the Committee's support for a bond referendum. The memo indicated that the Committee believed a bond referendum should be floated in the amount of \$25 million to properly maintain these properties into the future.

Mayor Truex indicated that he was in favor of moving forward with this although he was not certain of the exact amount of funding needed. He asked about the process involved in moving this forward. Mr. Kovanes stated that the Town could examine what the Planning and Zoning Division could do as well as look at available lands.

Vice-Mayor Paul contemplated that if the County held a referendum on Amendment 4 in March 2005, the Town would be able to piggyback on the ballot at a lower cost. She advised that the Town would need to have the appropriate wording to the Supervisor of Elections by the end of January or beginning of February 2005. Vice-Mayor Paul indicated that Deputy Budget and Finance Director Carol Menke had prepared figures on the costs and debt service based on 10-, 15-, and 20-year projections, based on the Town's rating and on the current going rates. She felt the Committee did a great job spelling out this issue and asked that this item be moved forward.

Mayor Truex asked how the Committee had arrived at the \$25 million figure. Ms. Greck indicated that the Committee had considered the 1989 figure, the current price of vacant land in Davie today, and inflation. She indicated that the Committee would support a more scientific approach in arriving at a suitable figure.

Vice-Mayor Paul commended the Committee on its work on the Evaluation and Appraisal Report (EAR) and advised that the Committee had prepared a very good summary of the parks and open space sites in the Town for the EAR draft. She felt this summary provided the Town with relevant and basic scientific information to help evaluate long-term open space needs.

Ms. Greck stated that the Committee was in favor of moving forward quickly at this time as the Town was estimated to be at buildout within five to ten years. She advised that the Committee felt that if available parcels were not acquired soon, the Town would not be able to purchase them in the future.

Councilmember Starkey agreed with moving this item forward and felt that the Town needed to leverage available grants and untapped revenue as much as possible. She spoke of key areas that staff had identified during discussions on the rural lifestyle initiative and requested that hard data supporting relevant costs be brought back before Council.

Vice-Mayor Paul felt that acquiring these funds would also put the Town in a better position as far as purchasing property with bonds was concerned. She pointed out that FTC grants were available for maintenance of properties once they were purchased.

Councilmember Hubert voiced her opposition to this issue as she felt the Town should get caught up on expenses related to properties already owned, before considering acquiring additional parcels.

Councilmember Crowley voiced his support for this so long as the figure could be justified.

Councilmember Starkey felt it was a good idea to put this issue out for public involvement as the residents tended to support the Town on its referendums.

Mayor Truex felt that it was difficult to accomplish this by March 2005 and pointed out that the price of land did not go up overnight. He stated that fast-tracking this item was good but did not feel the Town had to rush the administration on this.

## **TOWN COUNCIL MINUTES NOVEMBER 17, 2004**

Councilmember Starkey felt Council had done a prudent job looking at developments when they came before Council and requiring linkages when trails were missing pieces. She added it was important to allow the Committee to get a better handle on review and weigh in on such issues in the future.

Mayor Truex requested that Mr. Kovanes present a status report on this issue at the next Council meeting.

### **8. NEW BUSINESS**

There was not new business to be discussed.

### **9. MAYOR/COUNCILMEMBER'S COMMENTS**

#### **COUNCILMEMBER STARKEY**

**PROPOSED TRAIL.** Councilmember Starkey advised that she and members of the public had met to discuss the development being constructed by Mr. Jazaryi and indicated that the residents of Ridge View Estates had come up with a proposed trail. She stated that the bike route currently put the children on bikes in traffic and warehouses, which was a concern for the residents, in addition to the eight-foot wall. She explained that Mr. Jazaryi had agreed to donate a conservation easement and to move this over to 25 feet, then construct the wall closer to the development, along with adding landscaping at the wall. Councilmember Starkey wanted a consensus from Council on whether it thought the proposed trail was a good idea.

Mitchell Chester thanked Mr. Jazaryi and Mr. Lepore for bending over backwards to help residents of the community and commended Council for the early warning system set up. He stated that residents would support putting the bike path from Bright Road on the north property line, giving children access to the schools, and giving the communities west of Bright Road access to the schools, without having to go on State Road 84. Mr. Chester felt this proposal was a win-win solution for the Town.

Mayor Truex was concerned about children going across the fence on their bikes. Mr. Chester pointed out that the landscaping would keep the children on the bike paths.

Councilmember Crowley asked if Mr. Jazaryi would be doing the improvements. Mr. Lepore indicated in the affirmative. Councilmember Hubert voiced her concerns about children getting hurt.

Councilmember Starkey indicated she would come back with a proposal for consideration.

**PROPERTY PURCHASE.** Councilmember Starkey spoke of a parcel of land that Mr. Nardi wanted to purchase, provide a wall and make into a park for his community at Rolling Hills. She spoke of a portion of land to the west that could become a conservation easement. Mayor Truex asked if this was part of an existing trail system. Councilmember Starkey responded in the negative.

Mayor Truex requested that this issue be brought before Council at a future agenda. Councilmember Starkey wanted to ensure that Council was not opposed to this. Mayor Truex indicated he was not opposed.

**PROPOSED TRAIL.** Councilmember Starkey spoke of Mr. McBroom's property on Hiatus Road and Orange Drive and asked if Council could proceed with a proposed conservation easement. Mr. Kiar indicated this had already been prepared and sent over to Administration.

#### **COUNCILMEMBER CROWLEY**

**DRAINAGE.** Councilmember Crowley asked for updates on the Vista Filare drainage project. Town Engineer Larry Peters advised that the contractor had stopped work for a few days and staff was in the process of submitting a change order for review. He indicated that the process was moving along, but slowly.

**THANKSGIVING.** Councilmember Crowley wished everyone happy Thanksgiving.

**TOWN COUNCIL MINUTES  
NOVEMBER 17, 2004**

**MAYOR TRUEX**

**INSURANCE.** Mayor Truex asked that a member of staff speak with him about insurance increases for Town employees.

**TOURNAMENT.** Mayor Truex spoke of Park City's shuffleboard tournament and asked that Council approve funding for this event.

**TOWN ADMINISTRATOR.** Mayor Truex asked when the process for hiring a permanent Town Administrator would be presented to Council. Mr. Kovanes advised that this would be presented before the next Council meeting.

**10. TOWN ADMINISTRATOR'S COMMENTS**

**THANKSGIVING.** Mr. Kovanes wished everyone happy Thanksgiving.

**11. TOWN ATTORNEY'S COMMENTS**

**LITIGATION.** Mr. Kiar spoke of pending litigation with regard to Francis McDonough's appeal against the Town's requirements for SW 58 Avenue and advised that a settlement proposal had been submitted. Mr. Kiar requested that a Special Executive Session be held prior to the next Council meeting on December 1st, in order to determine Council's direction prior to oral arguments being heard.

**THANKSGIVING.** Mr. Kiar also wished everyone happy Thanksgiving

**12. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 10:15 p.m.

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor/Councilmember

\_\_\_\_\_  
Town Clerk